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LETTER DATED 26 AUGUST 1996 FROM THE CHAIRMAN OF THE SECURITY COUNCIL COMMITTEE ESTABLISHED BY RESOLUTION 661 (1990) CONCERNING THE SITUATION BETWEEN IRAQ AND KUWAIT ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to transmit herewith the report of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait. The present report, which was adopted by the Committee on 26 August 1996, is being submitted pursuant to the note by the President of the Security Council of 29 March 1995 (S/1995/234).

(Signed) Tono EITEL
Chairman
Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait

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REPORT OF THE SECURITY COUNCIL COMMITTEE ESTABLISHED BY RESOLUTION 661 (1990) CONCERNING THE SITUATION BETWEEN IRAQ AND KUWAIT

SUMMARY

The scope and intensity of the mandatory measures imposed by the Security Council against Iraq, following its illegal invasion and occupation of Kuwait in August 1990, were, at the time of their adoption, unparalleled in the history of the United Nations. Correspondingly, the tasks entrusted by the Security Council to the Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait have been both arduous and complex.

In monitoring the implementation of the sanctions regime in all its aspects, the Committee has relied on the cooperation of Member States and international organizations. The work of the Committee has been facilitated by the contribution of the multinational maritime forces which are deployed in the area pursuant to Security Council resolution 665 (1990) as well as the onshore monitoring mechanism operated by Lloyd's Register at the Port of Aqaba in Jordan. The United Nations Special Commission has also contributed to the work of the Committee.

The Committee has assigned high priority to the provision of essential humanitarian supplies for the civilian population of Iraq. During the period between January 1995 and mid-August 1996, the Committee processed 16,751 notifications and applications to provide humanitarian supplies to Iraq. The Committee has also authorized a number of humanitarian flights and aerial pesticide operations and approved several humanitarian projects sponsored by various United Nations agencies.

Owing to the lack of sufficient progress in the implementation of relevant Security Council resolutions, the difficulties surrounding the release of Iraqi assets frozen abroad for the purchase of humanitarian supplies have persisted. With the conclusion, on 20 May 1996, of a memorandum of understanding between the Secretariat of the United Nations and the Government of Iraq on the implementation of resolution 986 (1995) and the adoption, on 8 August 1996, of the expedited procedures by the Committee, Iraq will be allowed to sell oil to finance its imports of humanitarian supplies. The Committee is hopeful that the speedy implementation of this resolution will contribute to an amelioration of humanitarian conditions in Iraq.

The Committee has attached great importance to and made positive recommendations to the Security Council on the need to address the special economic problems faced by third States as a result of the carrying out of those enforcement measures. Furthermore, in response to the position of the Security Council for more transparency in the work of the sanctions committees, the Committee adopted a number of measures, including the issuance of press releases and the conduct of oral briefings by its Chairman to interested delegations, which, it is hoped, will make its work better understood by Member States.

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I. INTRODUCTION

1. On 6 August 1990, the Security Council decided, by resolution 661 (1990), to impose a number of mandatory sanctions against Iraq under Chapter VII of the Charter of the United Nations. By paragraph 6 of that resolution, the Council established a Committee, composed of all members of the Council, to undertake the following tasks and to report on its work to the Council, with its observations and recommendations:

> "(a) To examine the reports on the progress of the implementation of the present resolution which will be submitted by the Secretary-General;
>
> "(b) To seek from all States further information regarding the action taken by them concerning the effective implementation of the provisions laid down in the present resolution."

2. In paragraph 7 of the same resolution, the Security Council called upon all States to cooperate fully with the Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait in the fulfilment of its task, including supplying such information as may be sought by the Committee in pursuance of that resolution.

3. At its 2nd meeting, on 17 August 1990, the Committee provisionally adopted guidelines for the conduct of its work (see annex I).

4. The Committee elects its Bureau at the beginning of each calendar year. It consists of a Chairman and two Vice-Chairmen (see annex II). The Chairman of the Committee is elected in his or her personal capacity for the calendar year. The two Vice-Chairmen are elected in a delegation capacity. The Vice-Chairmen substitute for the Chairman in his or her absence. In 1995, Mr. Detlev Graf zu Rantzau (Germany) served as Chairman of the Committee for the first half of the year and Mr. Tono Eitel (Germany) as Chairman for the second half of the year. The delegations of Botswana and the Czech Republic served as Vice-Chairmen. In 1996, Mr. Tono Eitel (Germany) was re-elected as Chairman of the Committee and the delegations of Botswana and Poland were designated to serve as Vice-Chairmen.

5. At its 12th and 14th meetings, held on 21 and 27 September 1990, respectively, the Committee decided to address to States a questionnaire, requesting information on national measures taken to implement resolution 661 (1990). The questionnaire was forwarded to all States by the Secretary-General by a note verbale.

6. In accordance with paragraph 10 of resolution 661 (1990), the Secretary-General has issued a number of progress reports on the implementation of the resolution. These reports are contained in documents S/21536 and Corr.1, S/21641 and S/21715.

7. Since the adoption of resolution 661 (1990), the Security Council has significantly expanded the scope of the mandatory measures and, correspondingly, enhanced the role of the Committee. The purpose of the present report of the

Committee is to present a factual summary of the Committee's activities, focusing primarily on its major activities during 1995 and early 1996, with relevant information on and necessary references to other important events and decisions of previous years.

8. The present report was adopted by the Committee on 26 August 1996.

II. SCOPE OF THE MANDATORY MEASURES

9. The scope of the mandatory measures, as referred to in paragraph 7 above, was broadened by a series of resolutions adopted by the Security Council under Chapter VII of the Charter.

10. By resolution 665 (1990), the Security Council authorized the use of such measures commensurate to the specific circumstances as may be necessary to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990). The States concerned were requested to submit reports in this regard to the Security Council and the Committee.

11. By resolution 666 (1990), the Council decided that the Committee should keep the situation regarding foodstuffs in Iraq and Kuwait under constant review. For this purpose, the Secretary-General was requested to seek, on a continuing basis, information from relevant United Nations and other appropriate humanitarian agencies and all other sources on the availability of food in Iraq and Kuwait, and communicate such information to the Committee regularly. Based on the reports from the Secretary-General, if the Committee determined that circumstances had arisen in which there was an urgent humanitarian need to supply foodstuffs to Iraq or Kuwait, it would report promptly to the Council its decision as to how such need should be met.

12. By resolution 669 (1990), the Council entrusted the Committee with the task of examining requests for assistance under the provisions of Article 50 1/ of the Charter of the United Nations and making recommendations to the President of the Security Council for appropriate action.

13. By resolution 670 (1990), the Council confirmed that resolution 661 (1990) applied to all means of transport, including aircraft. No flights other than those undertaken in circumstances defined under paragraphs 3 to 6 of the resolution were to be permitted to or from Iraq or occupied Kuwait. In this regard, the Committee was vested with specific responsibilities, including notification or approval procedures for such flights. The Council also called upon all States to detain any ships of Iraqi registry which entered their ports and which were being or had been used in violation of resolution 661 (1990). By paragraph 9, all States were reminded of their obligations under resolution 661 (1990) with regard to the freezing of Iraqi assets and the protection of the assets of the legitimate Government of Kuwait and its agencies located within their territory, and to report to the Committee regarding those assets and action taken by them to implement the provisions laid down in the resolution.

14. To ensure the implementation of resolution 687 (1991), the Council decided to form a Special Commission, which, in cooperation with the International Atomic Energy Agency (IAEA), would carry out immediate on-site inspections based on Iraq's declarations and the designation of any additional locations by the Commission itself, undertake the destruction, removal or rendering harmless as appropriate of all items specified and develop a plan for the future ongoing monitoring and verification of Iraq's compliance with the relevant provisions. The Council also decided to create a Commission to pay compensation to foreign Governments, nationals and corporations for claims arising as a result of Iraq's unlawful invasion and occupation of Kuwait.

15. By paragraph 20 of the resolution, the Council decided that the prohibitions against the sale or supply to Iraq of commodities or products, other than medicine and health supplies, and prohibitions against financial transactions related thereto contained in resolution 661 (1990) would not apply to foodstuffs notified to the Committee or, with the approval of that Committee, under the simplified and accelerated "no-objection" procedure, to materials and supplies for essential civilian needs as identified in the report of the Secretary-General dated 20 March 1991 (S/22366), and in any further findings of humanitarian need by the Committee.

16. By paragraph 28 of the resolution, the Council decided upon a review mechanism for the sanctions regime against Iraq.

17. By resolution 700 (1991), the Council approved a set of guidelines to facilitate the full implementation of paragraphs 24, 25 and 27 of resolution 687 (1991). Under the guidelines, the Committee was entrusted with the responsibility for monitoring the prohibitions against the sale or supply of arms to Iraq and related sanctions established in paragraph 24 of resolution 687 (1991).

18. By resolution 706 (1991), the Council authorized the limited sale of Iraqi petroleum and petroleum products for the purpose of meeting essential Iraqi civilian needs and subject to the following conditions: (a) approval by the Committee of each such purchase following notification by the State concerned; (b) payment of each purchase into an escrow account to be established by the United Nations exclusively for this purpose and administered by the Secretary-General; and (c) approval by the Council of a scheme for the purchase of supplies for essential civilian needs and for appropriate United Nations monitoring and supervision.

19. By resolution 712 (1991), the Council confirmed $1.6 billion as the sum authorized for limited Iraqi oil sales as mentioned in paragraph 1 of resolution 706 (1991) and invited the Committee to authorize immediately the release by the Secretary-General from the escrow account of the first one-third portion of the sum, subject to the availability of funds in that account. By paragraph 8 of the same resolution, the Council decided that funds contributed from other sources might be deposited into the escrow account as a sub-account and be immediately available to meet Iraq's humanitarian needs.

20. Since resolutions 706 (1991) and 712 (1991) have not been implemented, the measures described in paragraphs 18 and 19 above have not taken effect.

21. By resolution 715 (1991), the Security Council requested the Committee, the Special Commission and IAEA to develop in cooperation a mechanism for monitoring any future sales or supplies to Iraq of items relevant to the implementation of section C of resolution 687 (1991) and other relevant resolutions, including the plans approved under the present resolution.

22. By resolution 778 (1992), the Council decided on the transfer by all States of those funds accruing to Iraq from the sale of Iraqi petroleum and petroleum products into the escrow account provided for in resolutions 706 (1991) and 712 (1991). Furthermore, by paragraph 11, the Council decided that no further Iraqi assets should be released for purposes set forth in paragraph 20 of resolution 687 (1991) except to the sub-account of the escrow account established pursuant to paragraph 8 of resolution 712 (1991) or directly to the United Nations for humanitarian activities in Iraq.

23. By resolution 986 (1995), the Security Council authorized States to permit, subject to certain conditions, the import of petroleum and petroleum products originating in Iraq, sufficient to produce a sum not exceeding a total of 1 billion United States dollars every 90 days for humanitarian purposes. The resolution also provided for appropriate United Nations monitoring and supervision for the purpose of assuring the equitable distribution of the essential civilian supplies to meet humanitarian needs in all regions of Iraq and to all categories of the Iraqi civilian population. On 20 May 1996, a memorandum of understanding (S/1996/356) was concluded between the Secretariat of the United Nations and the Government of Iraq on the implementation of resolution 986 (1995).

24. Pursuant to paragraph 21 of resolution 687 (1991), the Security Council has so far conducted 32 reviews of the sanctions regime established in paragraph 20 of that resolution. Sixteen of these Council reviews were at the same time reviews of the sanctions regime established in paragraphs 22 to 25 of resolution 687 (1991), as referred to in paragraph 28 of that resolution, and in paragraph 6 of resolution 700 (1991). No modification of the sanctions regime resulted from these reviews.

III. WORK OF THE COMMITTEE

A. Major activities and decisions

25. At its 36th meeting, on 22 March 1991, the Committee considered the report of the Under-Secretary-General for Administration and Management (S/22366), and adopted a decision, contained in document S/22400, with regard to the determination of humanitarian needs in Iraq. By paragraph 4 of the decision, the Committee decided upon a simple notification procedure for foodstuffs supplied to Iraq and a no-objection procedure for those civilian and humanitarian imports (other than supplies intended strictly for medical purposes) described in paragraph 3 of the same decision. By paragraph 5, subject to prior notification of the flight and its contents, the Committee granted general approval for all flights that would be transporting only foodstuffs, supplies intended for medical purposes or humanitarian imports.

26. By a further decision taken on 28 March 1991 (S/22419), the Committee brought to the attention of States the procedure to be followed by non-governmental organizations wishing to provide humanitarian assistance to the civilian population of Iraq.

27. Pursuant to paragraph 6 of the guidelines approved by the Security Council under resolution 700 (1991), the Committee submitted four reports (S/1995/169, S/1995/442, S/1995/744 and S/1995/992) in 1995 and two reports (S/1996/127 and S/1996/361) in 1996, at 90-day intervals, to the Council on the implementation of the arms embargo and related sanctions against Iraq. By paragraph 12 of the guidelines, all States are requested to report to the Committee any information relating to possible violations of the arms and related sanctions against Iraq. In accordance with paragraphs 13 and 14 of the guidelines, all States and international organizations are required to consult the Committee in cases relating to dual-use or multiple-use items. The last of the above-mentioned reports contained information provided by Jordan regarding the interception of 115 rocket-guiding devices (gyroscopes) at Amman airport, an instance of violation in connection with the arms and related sanctions under resolution 687 (1991).

28. At its 51st meeting, on 15 October 1991, the Committee adopted a set of procedures, contained in document S/23149, to be employed in the discharge of its responsibilities under resolutions 706 (1991) and 712 (1991).

29. On 7 July 1993, the Committee addressed a letter to all States and international organizations, drawing their attention to paragraph 11 of Security Council resolution 778 (1992) providing that "no further Iraqi assets shall be released for the purposes set forth in paragraph 20 of resolution 687 (1991), except to the sub-account of the escrow account, established pursuant to paragraph 8 of resolution 712 (1991)". It was underlined that payments to exporters through the direct release of Iraqi frozen assets were prohibited.

30. At its 100th meeting, on 9 August 1993, the Committee adopted a new procedure limiting the validity of Committee approval letters issued for all requests under the "no-objection" procedure to 120 days from their date of issue. It was further decided by the Committee at its 110th meeting, on 30 March 1994, that the Chairman may approve one extension of the time-limit from 120 days to 210 days on the basis of a specific request outlining the reasons for the additional time required.

31. In response to the increased number of applications and notifications, the Committee decided at its 111th meeting, on 13 April 1994, to introduce a revised notification and authorization request form to export goods to Iraq. At its 115th meeting, on 26 August 1994, the Committee further decided to introduce a standardized validity extension request form.

32. At its 126th meeting, on 20 July 1995, the Committee approved an export/import mechanism proposal jointly submitted by the Special Commission and IAEA in accordance with paragraph 7 of Security Council resolution 715 (1991), for the monitoring of future sales or supplies to Iraq of items that could be used for the production or acquisition of banned weapons. The proposed mechanism was forwarded by the Committee to the Security Council for its

consideration on 7 December 1995 (S/1995/1017). On 27 March 1996, the Security Council unanimously adopted resolution 1051 (1996) on the establishment of the mechanism. 2/

33. The Committee, at its 127th meeting, on 17 August 1995, adopted a number of measures aimed at making the Committee's procedures more transparent, as recommended by the Security Council in the note by its President dated 29 March 1995 (S/1995/234). To that end, the Committee decided, inter alia, to increase the practice of issuing press releases reflecting the most important matters discussed at the meetings. The Committee also decided to make available to any delegation, on a regular basis, lists indicating the status of communications processed under the "no-objection" procedure, as well as lists of decisions on other issues considered at Committee meetings. 3/

34. Further to the transparency package adopted in August 1995, the Committee decided at its 132nd meeting, on 1 February 1996, as recommended by the Security Council in the note by its President dated 24 January 1996 (S/1996/54), that after each meeting its Chairman would brief orally all interested delegations about the work of the Committee. 4/ As a further step towards transparency, at its 134th meeting, on 1 March 1996, the Committee decided that its Chairman would give an oral briefing to the press on the work of the Committee after each meeting, at a time and place to be announced.

35. On 14 April 1995, the Security Council adopted resolution 986 (1995) which, as a temporary measure, would allow Iraq to sell oil to finance its imports of humanitarian necessities. In this connection, the Committee was mandated to undertake a number of tasks in the implementation of the oil-for-food scheme. Following the adoption of the resolution, interdepartmental consultations were initiated in the Secretariat with a view to the implementation of the resolution. However, after undertaking a thorough review of the steps required to implement the resolution, the Secretary-General concluded that the cooperation of the Government of Iraq was an essential prerequisite and, in its absence, it would be appropriate to postpone preparation of the report required under paragraph 13 of resolution 986 (1995) until further progress had been made in discussions on the subject with Iraq (S/1995/495). The Security Council accepted the Secretary-General's conclusions and endorsed his decision to postpone preparation of the report (S/1995/507).

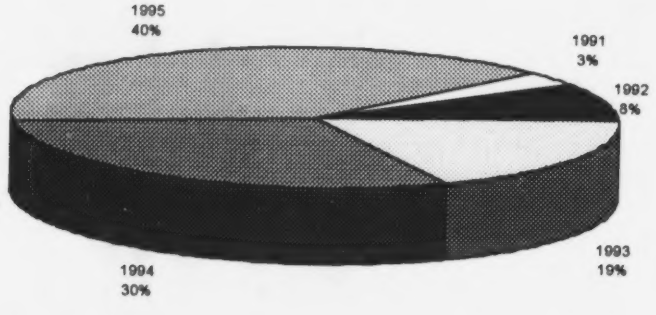
36. However, as a result of the Secretary-General's efforts, talks to agree on the modalities for the implementation of resolution 986 (1995) commenced, in February 1996, between the Government of Iraq and a United Nations team led by the Under-Secretary-General for Legal Affairs and Legal Counsel. On 20 May 1996, a memorandum of understanding was concluded between the Secretariat of the United Nations and the Government of Iraq on the implementation of resolution 986 (1995). Pursuant to paragraph 12 of the resolution, the Committee was requested to develop, in close coordination with the Secretary-General, expedited procedures as necessary to implement the arrangements set out in paragraphs 1, 2, 6, 8, 9 and 10 of that resolution. After intensive deliberations, the Committee, at its 142nd meeting, on 8 August 1996, adopted the procedures (see S/1996/636) to be employed by it in the discharge of its responsibilities as required by paragraph 12 of resolution 986 (1995). Following the adoption of the procedures, the Chairman of the Committee informed

the Secretary-General and the President of the Council, respectively, by a letter, to which the procedures were attached. At the same meeting, in view of the new requirements under resolution 986 (1995), the Committee also agreed to introduce a new application form for sending any humanitarian supplies to Iraq.

37. Between January 1995 and the first half of August 1996, the Committee held 24 meetings, bringing the total number of meetings to 142 since its inception in 1990 (see annex III). The past few years have seen a steady increase in the workload of the Committee. In 1991, the Committee received and processed 726 official communications from States and international organizations, not to mention other categories of communications. For 1992, 1993 and 1994, the number of such communications increased to 1,836, 4,074 and 6,571, respectively. In 1995 alone, the Committee considered and took action on 8,746 official communications, accounting for 40 per cent of all official communications processed between 1991 and 1995 (see figure I). The Committee has progressively introduced a number of measures during the past years with a view to further streamlining and standardizing its working procedures. In doing so, the Committee has succeeded in handling its increased workload with greater efficiency and effectiveness. Further to this end, a full review by the Committee secretariat is currently under way regarding the processing of applications for humanitarian exemptions and related authorizations.

Figure I

Percentage share, by year, of all communications processed between 1991 and 1995



B. Humanitarian exemptions

38. The Committee has assigned high priority to the processing of notifications and applications concerning humanitarian supplies, particularly those relating to medicines and foodstuffs. Such communications are processed expeditiously upon their receipt and letters of acknowledgment are speedily issued.

39. The communications relating to the supply of essential humanitarian items to Iraq, as received by the Committee, fall into three basic categories: (a) medicine and health supplies; (b) foodstuffs; and (c) other supplies that are regarded by the applicants as humanitarian necessities.

40. Since medicines and health supplies are exempted from the sanctions regime, the Committee does not have to be informed of such shipments to Iraq. However, for practical reasons, suppliers often choose to so notify. The Committee takes note of such notifications in a letter signed by the Chairman.

41. For foodstuffs, the Committee follows a simple notification procedure that requires the suppliers to notify it prior to sending such shipments to Iraq. Provided all the necessary information is furnished and is consistent with relevant Security Council resolutions, the Committee will acknowledge receipt of such notifications in letters signed by the Chairman.

42. For all other supplies that are intended to meet Iraq's basic civilian needs, the Committee follows the simplified and accelerated "no-objection" procedure. This means that an application will be considered approved unless an objection or hold was placed on it by a member or members of the Committee within a specific deadline set by the Committee. If an approval was granted, the Committee would issue to the applicant an authorization letter which is valid for 120 days (counting from the date of issuance of such letters). In the event the authorized shipment could not be completed within the set time-frame, an extension for another 90 days could be considered by the Committee upon receipt of a specific extension request. In the event that the shipment was not effected within the extended time-frame, a new request would need to be submitted to the Committee.

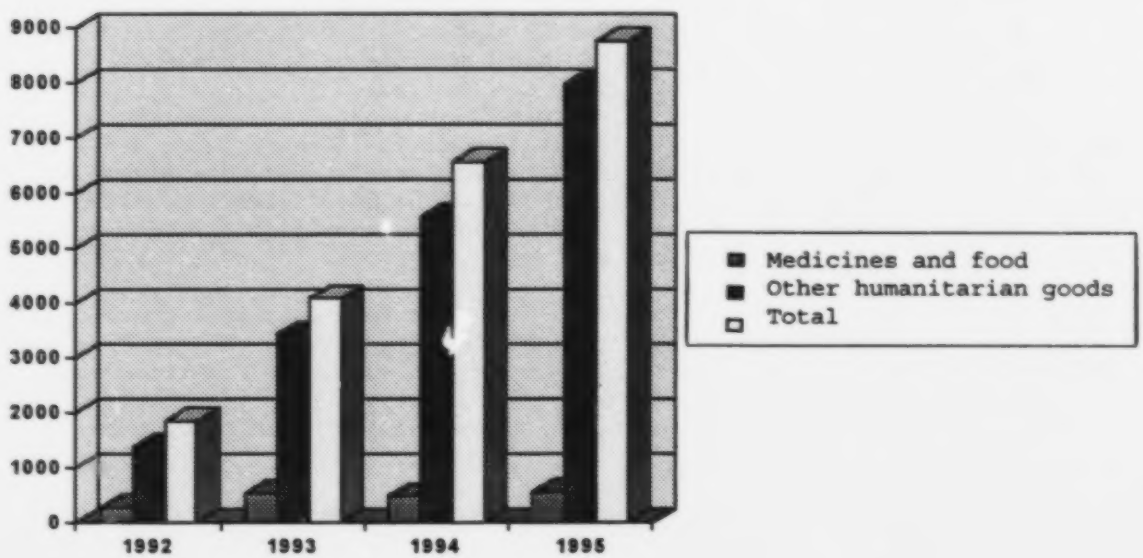
43. In view of the statement of the President of the Security Council of 20 December 1990 (S/23305) and a subsequent request by a group of non-aligned countries, suggesting that the Committee permit the supply of certain humanitarian supplies to Iraq under the notification procedure rather than the "no-objection" procedure, the Committee considered the matter at its 66th meeting on 6 March 1992. It reached the understanding that, while there would be no change in the procedure, the following categories of items would generally receive favourable consideration: medical equipment; packaging material for medical supplies and foodstuffs; clothing; supplies for babies and infants; soaps; animal feed and animals and eggs for breeding or hatching purposes; agricultural seeds; supplies and materials for primary and secondary education; spare parts and materials for water treatment and sewage plants; and storage facilities for grain and foodstuffs.

44. Between January and mid-August 1996, the Committee processed 8,031 official communications submitted by States and international organizations. For the

entire year of 1995, the Committee processed 8,746 official communications. The majority of the communications contained applications for humanitarian supplies to Iraq (see figure II). For 1995, the total reported value of medicine- and foodstuff-related supplies was estimated at approximately US$ 1.7 billion. It must be pointed out that the aforementioned figure excludes substantial amounts of medicine/foodstuff-related donations to Iraq, the value of which could not be determined. For the other category of applications considered in 1995 under the "no-objection" procedure, 2,794 applications out of a total of 8,004 (35 per cent) were approved by the Committee, representing an estimated value of US$ 8.8 billion. It should also be stated that, in the absence of a verifying mechanism, the Committee has no way of confirming how much of the supplies for which authorizations were issued actually arrived in Iraq.

Figure II

Composition of incoming communications, 1991-1995



Humanitarian flights

45. In accordance with paragraph 4 (b) of resolution 670 (1990), the Committee may grant authorization for flights to Iraq, subject to prior notification to the Committee of such flights and their cargo which should include only foodstuffs or supplies intended strictly for medical purposes.

46. In the past few years, the Committee has approved flights for a variety of humanitarian purposes. In 1995, the Committee approved a chartered flight from the Czech Republic to carry United Nations guards to and from Iraq and authorized two emergency medical evacuation flights, as requested by Iraq and

Italy, for the transportation of Iraqi invalids to other countries for urgent medical treatment. All such approvals were granted on the understanding that the flights concerned would not engage in any activities contrary to the provisions of Security Council resolutions 661 (1990) and 670 (1990) and, to that end, would be inspected and certified by representatives of the United Nations or the national authorities concerned. The approvals also stipulated that only non-Iraqi aircraft would be used and that the aircraft in question, when undertaking the approved flight, would not have to land for inspection in the countries that the aircraft would overfly, as otherwise provided for in paragraph 4 (a) of resolution 670 (1990).

47. The Committee was, however, unable to approve the following requests in 1995: an evacuation flight for medical purposes submitted by the Federal Republic of Yugoslavia, a flight request from Qatar for the transportation of officials of the International Federation of Association Football (FIFA) to Iraq and a flight request from Pakistan to carry pilgrims to Iraq (in view of security and other considerations that had emerged at the time of the Pakistani pilgrimage flights in 1994). In November 1995, the Committee put on hold a request for a chartered flight from the Russian Federation to transport medicines and some personnel from the Russian Federation to Iraq. The Committee was, however, willing to consider flights to transport medicines only in cases of emergency.

48. With regard to a request from Iraq, dated 17 May 1995, seeking the Committee's authorization for the use of Iraqi aircraft to transport Iraqi invalids whose condition required treatment outside Iraq and the aged and the disabled, the Committee, at its 124th meeting, on 28 June 1995, was unable to grant the requested blanket approval. However, the Committee indicated its willingness to consider specific requests of this nature on a case-by-case basis if such requests were submitted with the necessary information, including the medical and technical details.

49. Pursuant to paragraph 5 of the decision of the Committee taken on 22 March 1991, and in conformity with paragraph 4 (b) of resolution 670 (1990), the Committee granted a general/blanket approval to the Sudan in September 1992 for the transportation, by Sudan Airways, of approximately 20,000 tons of meat to Iraq. The approval was granted on the understanding that the following conditions would be met: (a) flights would be undertaken by non-Iraqi aircraft on the basis of direct round trips; (b) flights were not to engage in activities contrary to the provisions of the relevant Security Council resolutions and would be inspected and certified in each instance by the United Nations Special Coordinator in Khartoum; (c) flight logs would be made available to the Special Coordinator following the return to Khartoum of each flight; and (d) the Committee would be notified on an urgent basis in the event that an emergency stopover became necessary.

50. The Sudanese flights continued for about two years until late 1994, when a hold was placed on further flights after some Iraqis were found to be on board a flight in July of that year. From then until April 1995, the Committee considered the matter several times and finally decided, at its 122nd meeting, on 19 April 1995, to inform the Sudan that it remained unable to approve the resumption of the flights.

51. The Committee also considered favourably requests for the export of spare parts required for the repair of equipment at airfields in Iraq that were used by the United Nations on the understanding that the use of the airfields in question was necessary for United Nations operations and that all such requests would be submitted to the Committee by the supplier countries.

Aerial pesticide campaign

52. Between 1992 and 1995, the Committee received a number of communications from Iraq and the Food and Agriculture Organization of the United Nations (FAO) requesting authorization for aerial crop pest control and weed control campaigns to be carried out in Iraq. As in the past, the Committee responded positively to the latest such request, which was received in January 1996.

53. The Committee's approval of the above request was granted on the understanding that the operation would be carried out strictly in accordance with established procedures. In particular, the authorization was granted on the basis that: (a) the aircraft undertaking such operations would be piloted by non-Iraqi pilots under the supervision of FAO; (b) FAO would provide the Committee with 72 hours' advance notice prior to the time of commencement of such operations; (c) all necessary safety measures would be taken to ensure that the operations proceeded smoothly; and (d) equipment brought into Iraq for the operations would remain under the control of FAO during the operations and be removed from Iraq once the operations were completed. The Committee has, however, on a case-by-case basis, authorized FAO to maintain and use the spare parts purchased for the previous year's aerial operations within the context of the following year's operations.

54. FAO submitted three reports to the Committee in 1995 on the monitoring arrangements of the aerial pest control operations in Iraq. Upon a further request by FAO, the Committee granted an extension of the duration of the approved aerial pest control operation to late October 1995.

Shipping services

55. At its 121st and 122nd meetings, on 22 February and 19 April 1995, respectively, the Committee authorized, for the purpose of transporting humanitarian supplies to Iraq, the opening of shipping services between Iraqi ports and Qatar and the United Arab Emirates, respectively. The authorization for the establishment of such shipping services was given with the following conditions: (a) the vessels carry only food, medicines or materials for essential civilian needs that have been notified to or approved by the Committee, when so required, and have on board proof of Committee acknowledgment or authorization for the items concerned; (b) the vessels cooperate fully with the multinational maritime forces operating in the region pursuant to resolution 665 (1990); (c) no funds or proceeds accruing from such an operation would revert to Iraq; and (d) the States involved otherwise abide fully by the relevant Security Council resolutions, particularly with respect to financial transactions and prohibited trade with Iraq. In case of other parties wishing to use Iraqi ports for the delivery of humanitarian supplies, it is required that the parties concerned provide assurances, on a case-by-case basis, that no oil or marine diesel oil would be taken on board at the Iraqi ports.

Collaboration with humanitarian and other agencies

56. By Security Council resolution 666 (1990), the Secretary-General was requested to seek urgently and on a continuing basis information from relevant United Nations and other appropriate humanitarian agencies and all other sources on the availability of food in Iraq. Such information was to be communicated to the Committee on a regular basis in order to enable it to make the necessary determination as to whether or not, for the purposes of paragraphs 3 (c) and 4 of Security Council resolution 661 (1990), humanitarian circumstances had arisen.

57. At its 31st meeting, on 3 March 1991, the Committee considered the report of a joint World Health Organization (WHO)/United Nations Children's Fund (UNICEF) mission to Iraq undertaken to deliver emergency medical supplies and ascertain essential health needs of the affected population. At the Committee's request, the report was brought to the attention of all States in document S/22328.

58. At its 2979th meeting, on 3 March 1991, the President of the Security Council made a statement (S/22322), in which the Council welcomed the decisions taken by the Committee relating to food and medical needs, including those taken to facilitate the provision of humanitarian assistance; urged the Committee to pay particular attention to the findings and recommendations on critical medical health and nutritional conditions in Iraq that had been and would continue to be submitted to it by WHO, UNICEF, the International Committee of the Red Cross (ICRC) and other relevant organizations, consistent with the relevant resolutions; urged those humanitarian organizations to play an active role in the process and to cooperate closely with the Committee in its work; and welcomed the Secretary-General's announcement that he planned to send urgently a mission led by the Under-Secretary-General for Administration and Management to Iraq to assess humanitarian needs.

59. At its 45th meeting, on 22 July 1991, the Committee heard a report, contained in document S/22799, by the Executive Delegate of the United Nations Inter-Agency Humanitarian Programme for Iraq, Kuwait and the Iraq/Kuwait and Iraq/Iran border areas.

60. With a view to keeping the humanitarian situation in Iraq under constant review and facilitating the provision of the needed humanitarian supplies, the Committee has worked closely with the Office of the Coordinator of the United Nations Inter-Agency Humanitarian Programme in Iraq, various United Nations departments and humanitarian agencies, and other relevant agencies and organizations. The applications from United Nations humanitarian agencies and other international, intergovernmental and non-governmental organizations such as ICRC have received a prompt and positive response when submitted to the Committee with the necessary information and justification. It has also been the practice of the Committee to grant approvals for long-term development and humanitarian projects with appropriate monitoring and reporting arrangements. Several projects and programmes undertaken by the United Nations Development Programme (UNDP), UNICEF and WHO fall under this category. For example, at its 121st meeting, on 22 February 1995, the Committee granted clearance to IAEA to implement five technical cooperation projects involving nuclear activities

permitted under relevant Security Council resolutions which have important humanitarian relevance (three in the field of agriculture and two concerning nuclear medicine). Similarly, FAO was granted permission to carry out aerial pest control operations in Iraq.

61. To assist the United Nations Compensation Commission in the implementation of its mandate, the Committee has, whenever necessary, advised concerned Governments to take the necessary measures to ensure that proceeds from forfeiture and sale of Iraqi petroleum or petroleum products were transferred into the escrow account of the United Nations so that the Commission could recover 30 per cent of the total funds so transferred as stipulated under paragraph 5 (c) (i) of resolution 778 (1992) for the purpose of processing claims arising as a result of Iraq's unlawful invasion and occupation of Kuwait. Immediately following the adoption of the resolution in 1992, a note was addressed by the Secretary-General to all States requesting information regarding any Iraqi funds within their jurisdiction from the sale of Iraqi petroleum or petroleum products.

62. The Committee's cooperation and exchange of information with the Special Commission has taken place within the framework of paragraph 5 of resolution 700 (1991), by which the Council entrusted the Committee with the responsibility for monitoring the prohibitions against the sale or supply of arms to Iraq and related sanctions established in paragraph 24 of resolution 687 (1991), and paragraph 7 of resolution 715 (1991), by which the Committee, the Special Commission and IAEA were requested to develop in cooperation a mechanism for such monitoring. On 27 March 1996, the Security Council unanimously adopted resolution 1051 (1996) on the establishment of the proposed mechanism. The implementation of the mechanism within 60 days of the adoption of the resolution is expected to result in more frequent exchange of information and collaboration between the two bodies. The Committee would particularly appreciate it if the Special Commission would routinely bring to its attention any instances of violation in connection with the arms and related sanctions.

63. The Committee appreciates the cooperation and assistance it has received from various Secretariat departments, United Nations agencies and other humanitarian organizations in the implementation of its mandate. It has been particularly appreciative of the willingness of the various agencies to undertake ad hoc responsibilities from time to time as requested of them by the Committee, i.e., the inspection of certain flights approved by the Committee. In this context, the Committee wishes to acknowledge the valuable contribution of UNDP field offices in the Sudan and in Pakistan, which provided the Committee with valuable assistance in flight inspections, sometimes on very short notice. The Committee has been equally appreciative of the expert advice provided by the International Maritime Organization (IMO), the World Food Programme (WFP) and the Special Commission on certain technical matters, as well as the legal advice provided by the Office of the Legal Counsel.

C. Frozen assets

64. The Committee has been seized with the issue of Iraqi frozen assets for some time, particularly within the context of humanitarian supplies to Iraq.

Following the adoption of successive relevant Security Council resolutions, this issue has increasingly become more complex. At its 93rd meeting, on 5 May 1993, the Committee decided to request a legal opinion on whether, and if so under what conditions, Iraq's frozen assets may be used as payment for the sale or supplies to Iraq of medicine and health supplies, foodstuffs, as well as materials and supplies for essential civilian needs which have been approved by the Committee, within the scope of the pertinent Security Council resolutions.

65. In response to that query, the Legal Counsel of the United Nations had the following views:

> "The obligation for States to freeze Iraqi assets is contained in paragraph 4 of resolution 661 (1990). This obligation was confirmed in paragraph 9 of resolution 670 (1990), in which the Council reminded States of their obligations under resolution 661 (1990) with regard to the freezing of Iraqi assets. The only exception to this general prohibition is provided at the end of paragraph 4 of resolution 661 (1990) and concerns, 'payments exclusively for strictly medical or humanitarian purposes and, in humanitarian circumstances, foodstuffs'.
>
> "On 3 April 1991, the Security Council adopted resolution 687 (1991), by which, inter alia, it maintained in force the economic and financial sanctions provided for in resolution 661 (1990). In paragraph 20 of resolution 687 (1991) the Council decided:
>
> > '... that the prohibitions against the sale or supply to Iraq of commodities or products other than medicine and health supplies, and prohibitions against financial transactions related thereto, contained in resolution 661 (1990) shall not apply to foodstuffs notified to the Committee established by resolution 661 (1990) or, with the approval of that Committee, under the simplified and accelerated "no-objection" procedure, to materials and supplies for essential civilian needs as identified in the report of the Secretary-General dated 20 March 1991 (S/22366), and in any further findings of humanitarian need by the Committee'.
>
> "By referring in general to resolution 661 (1990) and expressly mentioning financial transactions, the wording of paragraph 20 makes it clear that, under the conditions and within the limits indicated therein, the prohibitions contained in paragraph 4 of resolution 661 (1990), concerning the obligation to freeze Iraqi assets, shall not apply. Consequently, paragraph 20 of resolution 687 (1991) allows States to unfreeze Iraqi assets held within their jurisdictions in order to finance the sale or supply to Iraq of foodstuffs notified to the Sanctions Committee, and of material and supplies for essential civilian needs approved by it. The possibility to unfreeze Iraqi assets in connection with supplies intended strictly for medical purposes was already provided for in paragraph 4 of resolution 661 (1990), and is simply reconfirmed in paragraph 20.
>
> "The Sanctions Committee confirmed this interpretation of paragraph 20 of resolution 687 (1991) in identical letters dated 17 June 1991 addressed

by the Chairman to a number of States allegedly holding frozen Iraqi assets (S/AC.25/NOTE/73). In the relevant part of the letters, the Chairman states that:

> '... if your Government decides, in accordance with national policy and your particular national legislation or regulations, to unfreeze Iraqi assets for the purposes specified in paragraph 20 of resolution 687 (1991), such action, which is not obligatory, would not constitute a violation of the relevant Security Council resolutions. Any assets so unfrozen can be used by Iraq only for the purchase of medicine and health supplies, and the financing of foodstuffs notified to this Committee, or, with the approval of this Committee under the simplified and accelerated no-objection procedure, materials and supplies for essential civilian needs ... Unfreezing of assets for any other purpose remains forbidden.'

"With resolutions 706 (1991) and 712 (1991), the Security Council established a mechanism whereby States were authorized to import petroleum and petroleum products from Iraq for a limited period of time and under the supervision of the Sanctions Committee. The revenues generated by the sale of Iraqi oil were to be deposited in an escrow account to be established by the Secretary-General and utilized for the purposes provided for in paragraphs 2 and 3 of resolution 706 (1991), inter alia, to finance the purchase of foodstuffs, medicines and supplies for essential civilian needs. Paragraph 1 (c) of resolution 706, which sets out some of the conditions for the implementation of the above-mentioned scheme, including United Nations monitoring and supervision to ensure the equitable distribution of humanitarian supplies inside Iraq, adds that such monitoring would be available 'if desired for humanitarian assistance from other sources'.

"Paragraph 8 of resolution 712 (1991) confirmed that 'funds, contributed from other sources may if desired, in accordance with paragraph 1 (c) of resolution 706 (1991), be deposited into the escrow account as a sub-account and be immediately available to meet Iraq's humanitarian needs as referred to in paragraph 20 of resolution 687 (1991) ...' The expression 'funds contributed from other sources' is quite general and can include voluntary contributions as well as frozen Iraqi assets. Thus, under paragraph 8 of resolution 712 (1991) the possibility introduced by paragraph 20 of resolution 687 (1991), of financing humanitarian supplies to Iraq directly through the release of Iraqi frozen assets, was complemented by the option to deposit those assets into the sub-account, as an alternative modality to direct release. Disbursements from the sub-account were subject to the requirements set out in section III.B of the decision of the Sanctions Committee of 14 October 1991 (S/23149), i.e., in-country monitoring and bi-weekly statements by the Secretary-General to the Sanctions Committee, including outlines of anticipated future obligations.

"In paragraph 11 of resolution 778 (1992), the Security Council decided that 'no further Iraqi assets shall be released for purposes set forth in paragraph 20 of resolution 687 (1991) except to the sub-account of

the escrow account, established pursuant to paragraph 8 of resolution 712 (1991), or directly to the United Nations for humanitarian activities in Iraq'. By referring to 'further Iraqi assets', other than the proceeds of sale of petroleum or petroleum products which are subject to the different regime contained in paragraphs 1 to 10 of resolution 778 (1992), this provision is intended to cover frozen Iraqi assets of any other origin. These funds can be destined to the financing of humanitarian supplies to Iraq through their deposit into the sub-account of the escrow account. Alternatively, pursuant to paragraph 11, these funds can be directly released to the United Nations as a voluntary contribution to the Inter-Agency Humanitarian Cooperation Programme in Iraq. The language of paragraph 11 is unconditional, and amends correspondingly the legal regime established by paragraph 20 of resolution 687 (1991). The release of frozen Iraqi assets by States to pay directly exporters of medicines, foodstuffs or other 'humanitarian' materials and supplies to Iraq is therefore prohibited.

"Pursuant to resolution 778 (1992), Iraqi frozen assets representing the proceeds of sale of petroleum or petroleum products may not be used as payment for the sale or supplies to Iraq of medicine and health supplies, foodstuffs, or materials and supplies for essential civilian needs approved by the Committee. Other Iraqi frozen assets may be used as payment for the sale or supplies to Iraq of medicine and health supplies, foodstuffs, as well as materials and supplies for essential civilian needs approved by the Committee. Such assets, however, can only be used for these purposes through their transfer into the sub-account of the escrow account, established pursuant to paragraph 8 of resolution 712 (1991). ... Disbursements from the sub-account will be subject to the requirements set out in section III.B of the decision of the Sanctions Committee of 14 October 1991."

66. At its 102nd meeting, on 14 October 1993, the Committee requested its secretariat to study and make recommendations concerning procedural matters relating to the financing of Iraqi purchases of foodstuffs, medicines and supplies for essential civilian needs through the transfer of Iraqi frozen funds to the sub-account of the escrow account, established pursuant to paragraph 3 of resolution 712 (1991). After consultations with concerned departments, the secretariat of the Committee submitted an informal report to the Committee which included the following:

"Initial research into the matter shows that to date no funds have been transferred into the sub-account of the escrow account and no detailed mechanism has ever been formulated with regard to the transfer of funds into and the use of the sub-account.

"As the Secretariat reads the relevant provisions of Security Council resolutions and the guidelines concerning the procedures to be employed by the Committee in the discharge of its responsibilities under resolution 706 (1991) and 712 (1991) (ref. S/23149), Iraqi imports of foodstuffs, medicines, and materials and supplies for essential civilian needs as approved by the Committee are, apart from the provision of paragraph 1 (c) of Security Council resolution 706 (1991), subject only to the provisions

and procedures of paragraph 20 of Security Council resolution 687 (1991), and that the monitoring (paragraph 1 (c) of Security Council resolution 706 (1991) will be carried out as indicated in annex II of the Secretary-General's report (ref. S/23006).

"Paragraph 1 (c) of Security Council resolution 706 (1991) reads:

'Approval by the Council, following the report of the Secretary-General requested in paragraph 5 of this resolution, of a scheme for the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs as referred to in paragraph 20 of resolution 687 (1991), in particular health related materials, all of which to be labelled to the extent possible as being supplies under this scheme, and for all feasible and appropriate United Nations monitoring and supervision for the purpose of assuring their equitable distribution to meet humanitarian needs in all regions of Iraq and to all categories of the Iraqi civilian population, as well as all feasible and appropriate management relevant to this purpose, such a United Nations role to be available if desired for humanitarian assistance from other sources.'

"To the knowledge of the Secretariat, Iraq has yet to comply with Security Council resolutions 706 (1991) and 712 (1991). Since the scheme envisaged in paragraph 1 (c) of resolution 706 (1991) is still in force, the sub-account cannot be utilized to finance the Iraqi purchases in the absence of an appropriate mechanism for the management of the activities and the monitoring and supervision provisions set forth in paragraph 1 (c) of resolution 706 (1991).

"In the view of the Secretariat, the voluntary transfer of funds to the sub-account of the escrow account by itself does not pose a problem, but the use of such funds in the sub-account to finance Iraqi purchases at the present stage (when resolutions 706 (1991) and 712 (1991) are yet to be implemented) is not feasible since the procedural scheme set forth in paragraph 1 (c) of resolution 706 (1991) and in the related guidelines (ref. S/23149) on the management and monitoring of activities relating to the use of the sub-account is, in the view of the Secretariat, applicable and controlling."

67. In the past few years, the Committee received numerous inquiries and official requests from States and international organizations concerning the possible release of Iraqi frozen assets and the activation of the sub-account of the escrow account of the United Nations for the financing of Iraq's humanitarian purchases. Iraq also submitted several requests to the Committee with regard to the partial release of its frozen assets for various purposes, such as paying its dues to international organizations, including the United Nations, financing the publication of the Holy Koran in Iraq, covering the cost of its pilgrimage programmes, meeting legal expenses for court actions outside the country, maintaining Iraq's diplomatic missions abroad and purchasing humanitarian and other supplies from other countries.

68. While the Committee remains sympathetic to the concerns of its interlocutors, it has been unable to approve applications requesting the release of Iraqi frozen assets or proposals to activate the sub-account of the escrow account.

69. However, on the question of financing Iraq's activities relating to the printing of the Holy Koran and to its pilgrimage programmes, the Committee has held the view that it would be prepared to consider the matter again if Iraq would identify a country currently holding its frozen assets that was willing to release such assets and that the country thus identified by Iraq would make a request to the Committee for the release of the required funds from Iraqi frozen assets and that the release would be channelled through the United Nations escrow account for the stated purpose. On the question of permitting Iraq to draw upon its frozen assets to pay its assessed contributions to the regular budget of the United Nations, the Committee was of the opinion that the terms of the relevant Security Council resolutions did not permit the Committee to consider unfreezing Iraqi assets for that purpose and that the request went beyond the scope of the Committee's mandate.

D. Matters relating to Iraqi vessels

70. Pursuant to the authority granted by the Council under resolution 665 (1990) to States to halt all inward and outward maritime shipping in order to verify their cargo and destination and to detain any ships of Iraqi registry that entered their ports and that were being or had been used in violation of resolution 661 (1990), the Committee received several communications providing information on such cases and seeking guidance.

Repair and maintenance of Iraqi vessels

71. In 1995, the Committee considered several requests submitted by Iraq and other States for the maintenance and repair of Iraqi vessels currently anchored in foreign ports in compliance with paragraph 8 of resolution 670 (1990). Since members of the Committee could not reach consensus on the issue, the Committee was unable to accede to requests of this nature. However, it indicated that such requests would be reconsidered on a case-by-case basis if it could be certified that the intended servicing of the Iraqi vessels was to avert an environmental or navigational hazard and not to make the vessels commercially viable or to accrue funds or resources to Iraq. In February 1996, the Committee had no objection to the basic repair of two Iraqi vessels in Italian ports on the understanding that the sole purpose was to prevent environmental and navigational hazard. With regard to the method of payment, the Committee confirmed that a barter deal was prohibited under resolution 661 (1990) and that the release of Iraqi frozen funds was regulated by paragraph 11 of resolution 778 (1992).

Disposal of impounded Iraqi vessels and cargo

72. With regard to Iraqi vessels impounded by other States, the Committee has consistently advised the concerned national authorities that it had no objection to their instituting legal proceedings leading to possible disposal of such

vessels under national law, provided that any claims adjudicated in favour of Iraq or persons acting for or on behalf of Iraq were paid into a blocked account in accordance with the provisions of Security Council resolution 661 (1990).

73. In 1995, the Committee was consulted on two occasions by the Governments of Kuwait and the United Arab Emirates regarding the disposal of Iraqi vessels and their illegal oil cargo which had been intercepted by the multinational maritime forces deployed in the area pursuant to resolution 665 (1990) and diverted to their ports. The Committee advised the two Governments to undertake investigations on the smuggling and authorized the sale of the oil based on the findings of such investigations. The Committee further suggested that the proceeds realized from the forfeiture and sale of such forfeitured Iraqi oil be transferred, after allowing the deduction of reasonable fees and expenses incurred by the authorities concerned, to the escrow account of the United Nations as provided for in paragraph 2 of resolution 778 (1992), with 30 per cent being made available to the United Nations Compensation Commission in accordance with paragraph 5 (c) (i) of resolution 778 (1992), as referred to in paragraph 10 of the same resolution. The Governments concerned were further invited to express their preference as to the allocation of the balance of the funds so transferred. For information purposes, the Committee addressed letters to all Gulf States outlining this course of action as a general guidance should they have to deal with similar situations in the future.

74. With regard to non-petroleum Iraqi cargo intercepted by the multinational maritime forces, such as dates, the Committee suggested that they be disposed of in a manner consistent with resolution 661 (1990) to ensure that Iraq derived no economic benefit from the sale of such cargo. Any proceeds of such sale that would normally accrue to Iraq should be deposited in a blocked account, with the possibility of voluntary contributions to the United Nations escrow account. Any non-Iraqi proceeds of the non-petroleum cargo might be disposed of in accordance with domestic law, provided no economic benefit accrued to Iraq, and again, with the possibility of voluntary contributions to the United Nations escrow account.

Shipwreck salvage operations

75. After several rounds of deliberations, the latest being at the 121st meeting, in February 1995, the Committee granted approval of two requests submitted respectively by the United Kingdom of Great Britain and Northern Ireland and Kuwait for wreck clearance concerning some Iraqi vessels in the northern part of the Gulf. The Committee recalled a report, dated 28 July 1994, from IMO, which drew attention to approximately 18 wrecked vessels in the Persian Gulf (15 in international waters and 3 in Iraqi waters), some of which posed an imminent environmental or navigational threat. The Committee granted the approvals on the understanding that the sole purpose of the proposed operations was to avoid environmental and navigational hazards in the adjacent area and that IMO would be involved in the execution of the operations. At the same time, the consent and cooperation of the parties concerned would be obtained by the requesting States before the actual salvage operation began.

76. Shortly after the above authorization, the Committee received a request from Jordan in March 1995 for shipwreck clearance concerning two Iraqi vessels

(tankers MT Amuriyah and MT Ain Zalah), the salvage of which had been approved by the Committee on the basis of two earlier requests submitted by the United Kingdom and Kuwait. In a letter to the Committee, dated 17 April 1995, Iraq also underscored the urgency of salvaging the two tankers mentioned in the Jordanian request.

77. The Committee has since considered the Jordanian request several times. At its 135th meeting, on 22 April 1996, the Committee approved the Jordanian request under the same conditions it had attached to the authorizations granted to the requests submitted by the United Kingdom and Kuwait.

IV. MONITORING AND ENFORCEMENT

78. In view of the fact that full responsibility for the implementation of the mandatory sanctions imposed by the Security Council rests with States (and, where specifically indicated, international and intergovernmental organizations), at the request of the Committee, the Secretary-General addressed notes to all States reminding them of their obligations under resolution 661 (1990) and subsequent related resolutions, and requesting them to provide the Committee with information regarding actions taken by them to implement the provisions of the resolutions. Subsequently, the Secretary-General issued a number of reports listing the States that had submitted information on the measures instituted by them for meeting the obligations set out in the relevant resolutions.

79. Pursuant to paragraph 16 of the guidelines adopted to facilitate full international implementation of resolution 687 (1991), States were further encouraged to "cooperate with each other bilaterally or within the framework of existing regional or other appropriate intergovernmental organizations or through other appropriate intergovernmental arrangements in the implementation of the arms and related sanctions against Iraq. Such cooperation would be particularly useful in matters, among others, of verification of the origin and destination of the items specified in paragraph 24 of resolution 687 (1991), as well as in the exchange of documentary evidence relating thereto" (S/22660, annex).

Multinational maritime forces deployed under resolution 665 (1990)

80. By paragraph 1 of resolution 665 (1990), the Security Council called upon "those Member States cooperating with the Government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990)". Furthermore, by paragraph 4 of the same resolution, the Council requested the States concerned to submit reports in this regard to the Security Council and its Committee established under resolution 661 (1990) to facilitate the monitoring of the implementation of that resolution.

81. These forces, commonly referred to as the multinational interception force, came into existence in 1991 pursuant to resolution 665 (1990) to prevent prohibited items from entering or leaving Iraq. For the first four years (1991-1994), the operation was focused in the Red Sea, including the area near the port of Aqaba in Jordan, which was regarded as a major port for Iraqi exports and imports. In 1994, the operation shifted to the Persian Gulf.

82. Naval forces from Argentina, Australia, Belgium, Canada, Denmark, France, Greece, Italy, the Netherlands, New Zealand, Norway, Saudi Arabia, Spain, the United Kingdom and the United States of America have so far participated in the operations of the multinational interception force. In December 1995, the multinational interception force consisted of vessels and crews from Belgium, Canada, Italy, New Zealand, the United Kingdom and the United States. The multinational interception force halted, seized or diverted ships whose activities were considered to be not in conformity with the provisions of the sanctions regime. Since the start of its operations, the force has conducted more than 22,000 queries, resulting in nearly 10,000 boardings and more than 550 diversions of ships. In 1995, the Committee was informed that the force diverted to nearby ports for further investigation nine vessels and 13 dhows carrying cargoes from Iraq in violation of the sanctions.

83. At the early stages of the multinational interception force operation, the Committee was approached by a number of States and shipping agencies expressing concern about the delays and ensuing extra outlays. When the issue was taken up by the Committee, the consensus that emerged from the discussions was that the general question of ship inspection did not fall within the mandate of the Sanctions Committee and that problems arising therefrom should be settled bilaterally.

84. As for the force's interception of ships near the Jordanian port of Aqaba, a new bilateral arrangement was concluded in 1994 by the parties directly involved. With the agreement of the Committee, the force's seaborne ship inspection was replaced by an onshore verification mechanism administered by Lloyd's Register. With the new mechanism being fully operational, the Committee was informed by the United States delegation, in mid-October 1994, that the multinational interception force deployed in the Red Sea had been reassigned to the Persian Gulf region and had then departed the area.

85. To enable the Committee to obtain a fuller appreciation of the scope of activities conducted by the multinational interception force, the Coordinator of the force, Vice-Admiral John Scott Redd, addressed the 132nd meeting of the Committee, on 1 February 1996, and provided detailed information on its activities. Prior to this, in December 1995, the head of the Sanctions Committee's secretariat was invited to participate in the annual meeting of the Maritime Liaison Office Middle East/South-west Asia Maritime Safety Conference, attended by more than 100 regional shipping and oil executives, and provide much-needed information on Committee procedures relating to shipments of humanitarian supplies. To encourage the newly established dialogue further, it was agreed that a direct channel of communication between the multinational interception force and the Committee's secretariat could be established, permitting instant verification of authorizations issued by the Committee, as

well as keeping the Committee routinely informed of cases of diversion of vessels.

Lloyd's Register

86. As a substitute for the multinational interception force's ship inspection operation near the port of Aqaba, the Committee was informed by Jordan in June 1994 that the Government was discussing with Lloyd's Register the possibility of concluding an agreement that would ensure the continuing strict implementation of the sanctions regime established under resolution 661 (1990).

87. Under the terms of the proposed agreement, Lloyd's Register would administer a system of close monitoring and observation of cargo at the port of Aqaba in a manner that would ensure the proper application of the guidelines of the multinational interception force. Under the new arrangements, reports on the implementation of the scheme would be submitted by Lloyd's Register, through the concerned Jordanian authorities, to the Committee at regular intervals. Given the need to ensure complete impartiality in execution of these arrangements related to the implementation of resolution 661 (1990), the Government of Jordan asked the United Nations Controller's Office to establish a trust account into which Jordan would make payments and from which Lloyd's Register would be paid. As part of the arrangements, Jordan requested the Committee's concurrence to establish a communications link between the United Nations Secretariat in New York and the Lloyd's Register operation in Aqaba so as to enable Lloyd's Register to confirm the details of approval letters issued by the Committee.

88. The Committee welcomed the establishment of the proposed onshore system of examination and verification of cargo at the port of Aqaba to be conducted in accordance with the guidelines of the multinational interception force. The Committee was of the view that it was appropriate for the United Nations Secretariat to cooperate with the Government of Jordan in the suggested arrangements. To facilitate the process, the Chairman of the Committee conveyed the above to the Secretary-General with a view to taking the necessary steps.

89. The operation of Lloyd's Register at Aqaba began on 25 August 1994 and the Committee has since maintained a close working relationship with them. As required, reports of the operation have been submitted to the Committee at regular intervals and the representatives of Lloyd's Register were invited to brief the Committee on their activities in February and June 1995 and in January 1996.

Export/import mechanism

90. Pursuant to paragraph 7 of resolution 715 (1991), the Special Commission and IAEA submitted, on 13 May 1994, for the Committee's consideration a draft export/import mechanism for monitoring future sales or supplies to Iraq of dual-use items that could assist Iraq in the production or acquisition of proscribed weapons.

91. The mechanism is designed to complement the ongoing monitoring and verification regime of Iraq's indigenous dual-use capabilities with the

monitoring of Iraq's imports. It aims at securing timely notifications of the export to Iraq of any items identified in the plans, both by the Governments of suppliers and by Iraq, and the possibility of inspection of those items at the end-user site. These notifications will identify the supplier, give a description of the item or items (including technology), the name of the end-user or consignee, the expected date of dispatch, the mode of transport and the port of entry into Iraq. The mechanism is not a regime for international licensing, but rather for the timely provision of information by States in which companies are located that are contemplating sales or supplies to Iraq of items covered by the plans.

92. Discussion of the proposed mechanism remained an item on the Committee's agenda for more than a year before the Committee was able to approve it at its 126th meeting, on 20 July 1995. The proposed mechanism was forwarded by the Committee on 7 December 1995 (S/1995/1017) to the Security Council for its consideration. Under the terms of Council resolution 687 (1991), adoption of this mechanism is a prerequisite for any easing or lifting of the sanctions adopted by resolution 661 (1990). On 27 March 1996, the Security Council unanimously adopted resolution 1051 (1996) on the establishment of the mechanism.

V. REPORTED VIOLATIONS

93. To ensure the effective implementation of the sanctions regime, the Committee expects to receive from States, international and intergovernmental organizations, and other monitoring and enforcement arrangements authorized by the Security Council and the Committee (including the Special Commission, the multinational interception force and Lloyd's Register) information relating to any violations or alleged violations of the sanctions regime. The Committee also, with a view to assisting Governments in their endeavours to enforce the sanctions, turns over to the Governments concerned information forwarded to it from various sources relating to violations of the mandatory sanctions with a request for thorough investigations to be undertaken so as to prove or dispel the information thus received. The results of such investigations are to be forwarded to the Committee for its consideration and further action, if necessary.

94. Over the past few years, the secretariat of the Committee has received a large number of requests from States, particularly from Jordan, for the purpose of verification of the authenticity of certain authorization letters issued by the Committee. While most of such documents thus checked have been true copies of the Committee's authorization letters, a few have been discovered to be forgeries. The common technique employed by the perpetrators is to use authentic letters of approval issued by the Committee as models and forge new letters of approval, or simply retype and change the date, the description and/or the quantity of the items for which an approval had been granted on the basis of a legitimate application.

95. The Committee has been very much concerned about such illegal activities and in 1993 decided to introduce the following measures to combat such forgeries: all approval letters would carry reference numbers and a validity

date; they would also carry an itemized list of items, with as much details as possible; Governments concerned would be requested to investigate violations once discovered and report to the Committee on their findings and the measures taken; and the secretariat would maintain close contact with the States concerned and verify the authenticity of Committee documents whenever necessary. The secretariat of the Committee is currently looking into possible ways for further improvements in the processing of authorizations for humanitarian supplies in order to minimize the risk of forgeries and falsifications of such documentation.

96. During 1995 and early 1996, the Committee's secretariat examined dozens of documents for verification of their authenticity as requested by States, and found only a few to be irregular. In such cases, the Governments concerned were contacted by the Committee and its secretariat to undertake investigations.

97. It must be noted in this connection that official communications from States regarding violations of the sanctions regime have been few in the past years. In December 1994, the Committee received a letter from the United States Mission to the United Nations alleging that oil smuggling activities through the Persian Gulf were being conducted between the Islamic Republic of Iran and Iraq in contravention of the sanctions regime established by Security Council resolution 661 (1990). The Committee transmitted the United States letter to the Government of the Islamic Republic of Iran to seek information and comments. By a letter dated 30 January 1995, the Government of the Islamic Republic of Iran denied the allegations of complicity of the Islamic Republic of Iran in smuggling Iraqi oil through the Persian Gulf. It informed the Committee that Iranian law enforcement authorities had taken steps to prevent violation of the sanctions regime and would continue to take all necessary measures in this regard. The Committee took note of the communication at its 121st meeting, on 22 February 1995.

98. At the end of 1995, the Committee was seized with a press report indicating that Jordan had intercepted a consignment of missile component parts destined for Iraq in violation of the sanctions. Upon the Committee's request, Jordan addressed a letter to the Committee on 27 December 1995, providing further information on the arms confiscation incident which had occurred at Amman airport. At its 133rd meeting, on 7 February 1996, the Committee took note of and expressed appreciation for the action taken by the Government of Jordan in connection with the arms confiscation incident.

99. To prevent violations of the arms and related sanctions, the Committee hopes to work closely with the Special Commission. It expects to be consulted and receive expert advice in connection with dual-use items and technology as well as information regarding cases of violations or alleged violations.

100. The multinational interception force has, through the United States Mission to the United Nations, also reported a number of diversions and/or seizures of vessels carrying Iraqi oil or other commodities from Iraq in violation of the sanctions regime. The Committee advised the States concerned to investigate such violations and dispose of the cargo in accordance with domestic law processes. The proceeds from such sales were to be transferred into a blocked

account or the escrow account in line with the provisions of resolution 778 (1992).

VI. APPLICATIONS UNDER ARTICLE 50 OF THE CHARTER

101. In view of the mandatory measures imposed against Iraq under resolution 661 (1990), the Security Council, in the context of Article 50 of the Charter of the United Nations, received communications from 21 States, namely, Bangladesh (S/21856), Bulgaria (S/21576), the former Czechoslovakia (S/21750), Djibouti (S/22209), India (S/21711), Jordan (S/21620), Lebanon (S/21686), Mauritania (S/21818), Pakistan (S/21776), the Philippines (S/21712), Poland (S/21808), Romania (S/21643), the Seychelles (S/21891), Sri Lanka (S/21710), the Sudan (S/21930), the Syrian Arab Republic (S/22193), Tunisia (S/21649), Uruguay (S/21775), Viet Nam (S/21821), Yemen (S/21748) and the former Yugoslavia (S/21618).

102. It was the first time in the history of the United Nations that such a large number of States had addressed the Security Council by invoking Article 50 of the Charter. While emphasizing their full adherence to the relevant Council resolutions, those States indicated grave economic, financial and commercial losses and costs incurred by them as a result of the implementation of the sanctions. The total losses were estimated by those States at more than US$ 30 billion.

103. By its resolution 669 (1990) of 24 September 1990, the Council entrusted its Committee with the task of examining requests for assistance under the provisions of Article 50 of the Charter and making recommendations to the President of the Security Council for appropriate action.

104. Among the early requests for assistance considered by the Committee was that of Jordan. Upon consideration of that application, the Committee approved a special report (S/21786) dated 18 September 1990 to the Security Council. The Security Council approved the special report and, by a letter from its President (S/21826) dated 24 September 1990, asked the Secretary-General to implement the recommendations and actions contained in that report.

105. The Committee set up, in October 1990, an open-ended working group to examine the requests for assistance and to advise the Committee on appropriate action. Accordingly, the Working Group considered, in 1990-1991, 20 individual cases referred to it and made recommendations to the Committee. Those recommendations, accompanied by additional explanatory material provided by the applicant States, were set out in the letters dated 19 and 21 December 1990 and 19 March 1991, respectively, from the Chairman of the Committee addressed to the President of the Security Council (S/22021 and Add.1 and 2).

106. Under each recommendation, the Committee recognized the urgent need to assist the affected country in coping with its special economic problems; appealed to all States to provide immediate technical, financial and material assistance to the country concerned in order to mitigate the adverse impact on its economy of the application of sanctions against Iraq; and invited the competent organs and specialized agencies of the United Nations system,

including the international financial institutions and regional development banks, to review their programmes of assistance to the country in question, with a view to alleviating those hardships.

107. The President of the Security Council informed the Secretary-General of the above-mentioned recommendations of the Committee (S/22033 and S/22398) and requested him to implement the actions contained therein. Accordingly, the Secretary-General addressed, on 23 January and 9 April 1991, letters to all States and to the relevant bodies, organizations and agencies of the United Nations system, including the international financial institutions and the regional development banks, strongly supporting the recommendations of the Committee with regard to follow-up actions. In particular, the Secretary-General requested States and organizations concerned to provide him, on a regular basis, with information on action taken by them to alleviate the special economic problems of the affected States.

108. By a letter dated 22 March 1991 (S/22382), the representatives of the 20 States and Jordan submitted to the President of the Security Council a collective memorandum, in which they stated, inter alia, that: "The problems affecting these countries persist, and in certain respects have been aggravated, while the appeals launched pursuant to the recommendations of the Security Council Committee and addressed to all concerned by the Secretary-General have not evoked responses commensurate with the urgent needs of the affected countries."

109. Upon consideration of the collective memorandum, the Council issued a further appeal on 3 May 1991 to States, international financial institutions and United Nations bodies to respond positively and speedily to the recommendations of the Committee for assistance to countries that found themselves confronted with special economic problems and that have invoked Article 50.

110. As a further measure, at its 41st meeting, on 21 May 1991, the Committee considered a communication from Jordan informing the Committee that Jordan had resumed imports of oil and oil derivatives from Iraq in limited quantities absolutely essential for Jordan's internal needs and that such imports were being funded by drawing on Iraqi debts to Jordan. After extensive consultations conducted by the Chairman with members of the Committee, during which the unique position of Jordan with respect to Iraq was taken into account, the Committee decided to take note of Jordan's resumption of oil imports from Iraq, pending any arrangements that could be made for Jordan to obtain supplies of oil from other sources and on the understanding that such Iraqi oil exports were subject to the provisions of Security Council resolution 692 (1991).

VII. OBSERVATIONS AND RECOMMENDATIONS

111. The Committee attaches particular importance to close cooperation and interaction with Member States and would welcome a more frequent exchange of information with national authorities on all aspects of the sanctions regime in order to further enhance its effective implementation.

112. Given that the responsibility for enforcing the sanctions regime lies with States, the Committee's role is primarily to provide all necessary assistance to national authorities to enable them to cope better with that task. The Committee expresses its appreciation to the multinational interception force and the Lloyd's Register for their close monitoring of the implementation of relevant Security Council resolutions and invites all States to cooperate with them in order to facilitate their work. Efforts should be made to improve cooperation and exchange of information between the Committee, its secretariat and the multinational interception force.

113. The effective implementation of the mandatory measures enhances the prospects for accelerating compliance by the target State with the relevant resolutions of the Security Council, thus leading to the earliest possible termination of the sanctions regime.

114. The Committee hopes that the implementation of Security Council resolution 986 (1995) will contribute to an improvement of the serious nutritional and health situation of the Iraqi population.

Notes

1/ Article 50 of the Charter of the United Nations provides:

"If preventive or enforcement measures against any States are taken by the Security Council, any other State, whether a member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems."

2/ See also paras. 90-92.

3/ See press release IK/190-SC/6171 of 2 February 1996.

4/ See press release IK/194-SC/6190 of 5 March 1996.

Annex I

GUIDELINES FOR THE CONDUCT OF THE WORK OF THE COMMITTEE

Provisionally adopted at the 2nd meeting, on 17 August 1990

1. The mandate of the Committee is defined in resolution 661 (1990).

2. The Committee will hold its meetings in private sessions but will open them to the public as and when necessary for the enhancement of the effectiveness of the Committee.

3. The rule of the Committee for reaching decisions will be consensus.

4. If consensus is not reached in a particular issue, the Chairman will undertake consultations as he or she deems appropriate to resolve the issue and to ensure the continued effective functioning of the Committee.

5. The Committee may decide, on a case-by-case basis, to invite non-members of the Security Council, as well as organizations and individuals, to address the Committee and assist it on an ad hoc basis, if necessary and useful to the progress of its work.

6. It is the intention of the Chairman, in consultation with all members of the Committee, to hold press conferences and briefings, if necessary, in order to publicize the work of the Committee.

7. The Chairman expects to receive information from all States, as well as from other sources, including non-governmental organizations and individuals in a position to provide such information, relevant publications and press reports.

8. In order to facilitate its work, the Committee may request verbatim records in instances that, in its view, warrant the issuance of such records, in addition to the summary records of its meetings.

9. The success of the work of the Committee depends upon the cooperation of all States.

10. The Committee will submit reports to the Council as requested and whenever deemed necessary.

Annex II

COMPOSITION OF THE BUREAU

1990	Chairperson	Ms. Marjatta Rasi (Finland)
	Vice-Chairmen	Canada and Colombia
1991	Chairman	Mr. Peter Hohenfellner (Austria)
	Vice-Chairmen	Ecuador and Romania
1992	Chairman	Mr. Peter Hohenfellner (Austria)
	Vice-Chairmen	Hungary and Venezuela
1993	Chairmen	Mr. Terence O'Brien (New Zealand) (January to 19 June 1993) Mr. Colin Keating (New Zealand) (from 23 June 1993)
	Vice-Chairmen	Hungary and Venezuela
1994	Chairman	Mr. Colin Keating (New Zealand)
	Vice-Chairmen	Argentina and the Czech Republic
1995	Chairmen	Mr. Detlev Graf zu Rantzau (Germany) (January to June 1995) Mr. Tono Eitel (Germany) (from July 1995)
	Vice-Chairmen	Botswana and the Czech Republic
1996	Chairman	Mr. Tono Eitel (Germany)
	Vice-Chairmen	Botswana and Poland

Annex III

MEETINGS FROM JANUARY 1995 TO MARCH 1996

119th meeting	Wednesday	4 January 1995
120th meeting	Tuesday	24 January 1995
121st meeting	Wednesday	22 February 1995
122nd meeting	Monday	3 April 1995
123rd meeting	Monday	22 May 1995
124th meeting	Wednesday	28 June 1995
125th meeting	Monday	17 July 1995
126th meeting	Thursday	20 July 1995
127th meeting	Thursday	17 August 1995
128th meeting	Monday	16 October 1995
129th meeting	Wednesday	6 December 1995
130th meeting	Wednesday	3 January 1996
131st meeting	Thursday	25 January 1996
132nd meeting	Thursday	2 February 1996
133rd meeting	Wednesday	7 February 1996
134th meeting	Friday	1 March 1996